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10  
11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13 OAKLAND DIVISION  
14

15 **TODD ASHKER, et al.,**

16 Plaintiffs,

17 v.

18 **GOVERNOR OF THE STATE OF**  
19 **CALIFORNIA, et al.,**

20 Defendants.  
21

C 09-05796 CW

**DECLARATION OF J. BRYAN ELROD  
IN SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFFS'  
MOTION FOR CLASS CERTIFICATION**

**REDACTED**

22 I, J. Bryan Elrod, declare as follows:

23 1. I am a convicted felon and an ex-member of the Aryan Brotherhood prison gang. I  
24 am currently incarcerated in the Security Housing Unit (SHU) at Pelican Bay State Prison. I  
25 submit this declaration in support of Defendants' opposition to Plaintiffs' motion for class  
26 certification. If called to testify, I could competently and truthfully testify as to these matters. I  
27 submit this declaration freely and voluntarily.  
28

1           2.     I am from east Texas. In 1991, when I was 17-years old, I was convicted of first  
2 degree murder and robbery in Bakersfield, California. My sentence was 29 years to life. It was  
3 the first time I had ever been in trouble with the law. At the time, I was addicted to  
4 methamphetamine. In 1992, I was sent to California Youth Authority in Stockton, California. In  
5 1994, I was transferred to California Correctional Institution, in Tehachapi, California. While at  
6 Tehachapi, I received a 16-month determinate SHU term for stabbing an African-American  
7 inmate. Although I was not formally associated with the Aryan Brotherhood at the time, I had  
8 begun mentally associating with them. As a young white guy, I looked up to the Aryan  
9 Brotherhood, or "the Brand," as we call it, when I was on the mainline, although I had never met  
10 anyone from the Aryan Brotherhood. In 1995, I was transferred to Pelican Bay, where I was  
11 housed in the SHU. In 1996, my determinate SHU term ended, and I was transferred to the  
12 general population at Pelican Bay.

13           3.     Once in the Pelican Bay general population, I was involved in a race riot between  
14 black and white inmates. We were ordered by the Aryan Brotherhood not to "make peace," or, in  
15 other words, we were ordered to participate in the riot. I stabbed a black inmate and received a  
16 two year determinate SHU term. I was sent back to the SHU.

17           4.     In 1997, I was charged with the murder of my cellmate in the SHU at Pelican Bay, a  
18 crime I did in furtherance of my association with the Aryan Brotherhood. Aryan Brotherhood  
19 member [REDACTED] ordered his murder. I knew that if I did not follow orders, I would be  
20 targeted by the gang for assault or murder. The local District Attorney prosecuted the case, and I  
21 was given an additional 16-year sentence. In addition, I was disciplined by Pelican Bay prison  
22 officials and given an additional determinate SHU term of four years. I served the determinate  
23 SHU term from 1997 to 2000, and was then released into the general population, or mainline, at  
24 Pelican Bay.

25           5       Once I was released to the Pelican Bay general population for the second time, I was  
26 ordered by Aryan Brotherhood member [REDACTED] not to stay there too long, meaning I  
27 should commit an offense which would get me sent back to the SHU. I was given the name of an  
28 inmate that the Aryan Brotherhood wanted killed and told to make sure that it was done. The

1 inmate was not on the yard when I was there, so I stabbed another inmate that I knew the Aryan  
2 Brotherhood also wanted killed. I was given another determinate SHU term and returned to the  
3 PBSP SHU.

4 6. In 2001, I was validated as an associate of the Aryan Brotherhood. I have been  
5 incarcerated at Pelican Bay's SHU ever since. In 2008, I was re-validated as a member of the  
6 Aryan Brotherhood.

#### 7 **Gang Activity Within the SHU**

8 7. Beginning in 1994 and over the course of the next seventeen years, I followed the  
9 racist, criminal, and violent culture of the Aryan Brotherhood prison gang, participating in  
10 murder, assaults, criminal racketeering, recruitment, mentorship, and enforcement. When I  
11 arrived at Pelican Bay's SHU, I met other brothers and my association with the Brand solidified.

12 8. The code of the Aryan Brotherhood is to protect other whites. In addition, brothers  
13 vow to immediately kill any sex offender they meet in prison, or known informants. This is part  
14 of the twisted mentality of the Brand, having someone to look down on to avoid processing their  
15 own crimes.

16 9. I personally know of seven in-cell murders and one attempted murder committed by  
17 Aryan Brotherhood inmates in the SHU on behalf of the Aryan Brotherhood. While all of the  
18 inmates killed were on bad terms with the gang, I believe this string of murders to be the Aryan  
19 Brotherhood trying to reassert its dominance in the prison through intimidation and fear. The list  
20 includes the cellmate I murdered in 1997 for the Brand, while in the SHU. I was instructed how  
21 to kill him by a fellow Aryan Brotherhood member. This inmate I murdered had promised to do a  
22 murder for the Aryan Brotherhood, but had later backed out. I also "speared," or shot with a  
23 small projectile, another inmate, a member of the Nazi Low Riders gang while in the SHU.  
24 Additionally, I was "gassed" (when another inmate throws feces and urine on you) three times,  
25 and speared once, while in the SHU.

26 10. All Aryan Brotherhood decisions, including membership and the decision to order the  
27 murder of another member, are taken by vote. I personally participated in countless votes while I  
28 was a member of the Brand while in the SHU. These votes are taken by yelling through the

1 drains, talking in the law library, or sending kites (written messages between inmates), to name a  
2 few examples. Sometimes it would take months to complete voting in the SHU.

3 11. Another common Aryan Brotherhood activity is to ask for every white inmate's  
4 paperwork when he arrives at the SHU. When I arrived at the SHU, I gave an Aryan Brotherhood  
5 member my prison chronos (prison documents detailing medical or classification information),  
6 and my parole paperwork. These documents will indicate an inmate's commitment offense,  
7 where he is from, and his street gang affiliation, if any. Additionally, sometimes Aryan  
8 Brotherhood members will ask an inmate for the criminal trial transcripts from his commitment  
9 offense to see if he has ever testified against the Brotherhood, or any one else.

10 12. In eleven years as an active member of the Aryan Brotherhood, I only received one  
11 115 Rule Violation Report. But, I was still an active member in the Aryan Brotherhood, who  
12 participated in enforcement, votes, communications, organization, and recruitment. Yet apart  
13 from material contained in my confidential central file, I have no documented gang activity. I  
14 have never been convicted of a gang-related crime, or received any CDCR rule infraction for  
15 gang activity.

### 16 **The SHU's Effectiveness in Curtailing Gang Activity**

17 13. It is my opinion, and the opinion of other Aryan Brotherhood members I know, that  
18 the short corridor at Pelican Bay's SHU has effectively killed the Brand. Because most of the  
19 Aryan Brotherhood leadership is housed in the short corridor, away from inmates with  
20 determinate SHU terms who will soon be released to the general population, it is very difficult for  
21 them to influence the mainline inmates anymore, because the lines of communication out there  
22 have been cut.

### 23 **The Security Housing Unit is not Torture**

24 14. The SHU is austere and no place for the mentally ill. But it is not inhumane, or  
25 torture. I came to Pelican Bay SHU's in 1995 and have been living under these conditions for  
26 about 16 1/2 of my 18 years, and I am in no way mentally debilitated. At 40, I will leave the  
27 SHU far saner than the out-of-control 22-year-old kid who arrived here.

1           15. In the SHU, we have many opportunities for social interaction with other inmates and  
2 even with correctional officers. Our cells have an open front, so we can talk to the up to seven  
3 other prisoners in our pod all the time. We would talk to each other this way every day, and we  
4 never received 115s for talking in our pod. We consistently see each other every day when we go  
5 to yard or showers, passing by one another's cells to say hi, and even having quiet personal  
6 conversations. We play chess with each other from our cells by calling the moves out loud.

7           16. Porters, or "tier tenders," are inmates who have been designated to clean their pod  
8 area. They come out twice a week to clean the tier. They are usually given some time by the  
9 correctional officers to come to the cell doors and socialize. Plaintiff Paul Redd was our tier  
10 tender for years in D-2 E-pod. I spent hours talking with and getting to know him.

11           17. Every time we go to yard, showers, or law library, the correctional officers will give  
12 us a few minutes to chat with our neighbors in our pod. We walk up to their cell fronts and chat.

13           18. Every time an inmate gets an annual package, it is customary to give everyone else in  
14 the pod a small gift from your annual package. The correctional officers allow us to come out of  
15 our cells and pass out bags to everyone. We also consistently share our canteen purchases with  
16 other inmates to make sure that inmates who don't have money don't go without canteen items.  
17 Food is very social here.

18           19. The food in the SHU is the same as in any other prison I have been in, no better or  
19 worse. The portions are not smaller.

20           20. We are provided far more recreational programming here in Pelican Bay SHU than  
21 your average Level IV mainline unit with active gang members because those mainline units have  
22 disturbances that cause the need for modified programming. In Pelican Bay's SHU, we receive 1  
23 1/2 hours of yard, seven days a week, rain or shine. We can work out, jog, do pull-ups, or play  
24 handball.

25           21. Inmates in Pelican Bay's SHU have access to educational programming. We can earn  
26 our G.E.D. here and an A.A. degree from Coastline Community College for nothing but the price  
27 of books. We can order any books we like to study for our own personal education. I personally  
28 taught myself Spanish and German.

1           22. We have access to free self-help correspondence courses, including parenting courses,  
2 Alcoholics/Narcotics Anonymous, Anger Management, Gangs Anonymous and religious  
3 correspondence courses. Many of these courses offer certificates of achievement that are  
4 recognized by the Parole Board and placed in our central files.

5           23. I have never experienced coercive denial of medical care at Pelican Bay's SHU. In  
6 fact, while in the Pelican Bay SHU, I had my wisdom teeth removed, was treated for Hepatitis C  
7 twice, had three liver biopsies, and received medical treatment at an outside hospital during the  
8 2011 hunger strikes. I have never seen any inmate denied medical care or told to debrief to get  
9 better care.

10           24. When inmates do not receive mental health care in the SHU, it is because gang  
11 members view mental distress as a sign of weakness. Talking to a psychologist, in private or not,  
12 is frowned upon in the SHU. This is a matter of gang culture, not inadequate care. Most men  
13 will not acknowledge a psychologist walking past their cell.

14           25. During my time in the SHU, I personally did not experience the "unrelenting and  
15 crushing mental anguish, pain, and suffering" that the Plaintiffs describe in the second amended  
16 complaint, which I have read. Although for many years I suffered tough times, it was due to my  
17 own horrific choices that resulted in my placement in prison, and ultimately, the SHU. For many  
18 years I was caught up in my own pain, failure, and misery. I felt angry and emotional often. But  
19 it was not due to the conditions in the SHU; rather, it was centered around my own failures and  
20 lack of future.

21           26. Long-term inmates like me know how to serve long periods of time in prison, and  
22 they try to help each other do their time. For example, I have seen younger inmates experience  
23 repetitive anxious thoughts about a perceived slight from another inmate. Often, when this  
24 occurred, another inmate in my pod would engage him in a conversation about how to do time,  
25 and tell him to avoid over thinking.

26           27. For many inmates, their whole thought process on the mainline is consumed with  
27 physical safety because of the regular threat of violence on the mainline. When they arrive in the  
28

1 SHU, it is a relief because they know that they are physically safer than they would be in the  
2 general population.

3 28. If you have been in the SHU for ten or more years, like I have, it is for no other  
4 reason than your choice to remain loyal to and active in the gang you are associated with, or  
5 because it is the prison environment in which you feel the safest.

### 6 **The Institutional Gang Investigators Get Validation Right**

7 29. Although I had never been charged with a gang-related rule violation or criminal  
8 charge in my seventeen years in the SHU, I was heavily involved in gang activity from 1995  
9 onward. The Institutional Gang Investigators (IGI) not only knew I was an Aryan Brotherhood  
10 member, they could list almost every detail of my gang involvement and activity since I arrived at  
11 Pelican Bay.

12 30. Many inmates split hairs on details of the validation process, but the IGIs get the  
13 validations right. When I was validated as an associate of the Aryan Brotherhood, I was indeed  
14 an associate. And later when I was validated as a member of the Aryan Brotherhood it was  
15 because I was in fact a member.

16 31. There is no such thing as an inactive gang member. Once you commit your life to a  
17 prison gang, the only out is death. Prison gangs are not casual associations; I am not talking  
18 about four or five guys who all grew up on the same corner. Organizations like the Aryan  
19 Brotherhood have shown their willingness to kill repeatedly over the years.

### 20 **Personal Knowledge of the Plaintiffs**

21 32. Plaintiff Ashker is a former brother of mine who is active in the Aryan Brotherhood.  
22 I met him in the Pelican Bay Administrative Segregation Unit (ASU) during the 2011 hunger  
23 strikes. Although I found him unlikeable, he was very engaging and eager to discuss Aryan  
24 Brotherhood politics and business.

25 33. Plaintiff Troxell is another former brother of mine who is active in the Aryan  
26 Brotherhood. I spent a month with him during the 2011 hunger strikes in the Pelican Bay SHU,  
27 and again on a medical transfer to Corcoran SHU. He was engaging, conversational, and very  
28 likable. He was eager to plan Aryan Brotherhood business if we were released from the SHU.

1           34. Plaintiff Paul Redd is a known active BGF member. He is also one of the most  
2 likeable, engaging, and well-rounded men I have ever met in prison. Not only is he sane, he is  
3 one of the smartest men I know. I spent five years in the same pod with him, and I never saw him  
4 exhibit symptoms suggesting that he was mentally suffering, as he alleges in this case.

5           35. Plaintiff George Ruiz is an active affiliate of the Mexican Mafia. I know because my  
6 neighbor of five years, [REDACTED], a Mexican Mafia member, would accidentally receive his  
7 mail frequently and would tell me about it.

8           36. Plaintiff Richard Johnson is a known active BGF member. He and I were on the  
9 same tier for five years. We joked and talked politics regularly. I never saw him exhibit behavior  
10 that indicated he was mentally suffering.

### 11           **Participation in the Hunger Strikes**

12           37. When fellow Aryan Brotherhood members asked me if I wanted to participate in the  
13 2011 hunger strikes, I was not interested. I participated in the 2002 hunger strikes, and felt that  
14 we had gained nothing since we were still in the SHU.

15           38. My fellow Aryan Brotherhood member, [REDACTED], met me in the law library  
16 and told me that the hunger strikes were not going to be like 2002. He said that Ashker and  
17 Troxell were willing to “go out in a box.” At that point, I realized it was serious and agreed to  
18 participate.

19           39. The goal of the 2011 hunger strikes, from the perspective of the Aryan Brotherhood,  
20 was to get out of the SHU because we knew it would kill the organization. We believed that if we  
21 were in the general population, we could sell drugs, make money, and develop an influence on the  
22 streets.

23           40. Plaintiffs Ashker and Troxell told us that they were in touch with attorneys on the  
24 outside who had told them they we would have representation and support in the public.

25           41. During the 2011 hunger strikes, I went twenty days on nothing but water. During that  
26 time, Pelican Bay medical staff weighed me and took my blood pressure on a regular basis. It  
27 was very difficult, I often felt weak and sick. After I started eating again, I had a seizure. I was  
28 taken to an outside hospital and put on an I.V., and was in the I.C.U. for three days. I later found



1 out that Plaintiffs Ashker and Troxell had continued to eat from their canteen during the hunger  
2 strike.

3 42. Although the hunger strikes were temporarily called off, they started up again later in  
4 2011. I again participated. We knew we could tap big time support through this tactic, but we  
5 weren't trying to improve the conditions in the SHU; we were trying to get out of the SHU to  
6 further our gang agenda on the mainline. Pelican Bay officials placed all of the leaders of the  
7 hunger strike in the ASU together. It was easier the second time; I did not get as sick. But  
8 because I was losing weight, I was medically transferred to the Corcoran SHU, along with  
9 Plaintiff Troxell. While there, we made an agreement as to new rules when we returned to the  
10 SHU. We agreed that the Aryan Brotherhood should lay low and not commit any acts of  
11 violence, so that we could spread out the organization without detection by prison officials.

12 43. I know that the outside groups that were involved in the hunger strikes were made up  
13 of compassionate people, including some of the lawyers that represent Plaintiffs in this case. In  
14 many ways, this source of positive support was what motivated me to disassociate from the gang  
15 lifestyle. I do regret generating that support under false pretenses, however. Attached as Exhibit  
16 A is a true and correct copy of a letter I wrote to Marilyn McMahon, an attorney for California  
17 Prison Focus who advocates on behalf of the hunger strike negotiators and represents the  
18 Plaintiffs in this case.

### 19 **Debriefing**

20 44. On November 20, 2012, I came to the decision to leave my life in the Pelican Bay  
21 SHU and contact the IGIs about my desire to enter the debriefing program. I had reached a point  
22 where I came to see how incredibly blessed I was, with a loving family and many good friends  
23 who never gave up on me. I had hurt so many people, and I knew I had to change my life. The  
24 first step was leaving the Aryan Brotherhood.

25 45. To SHU inmates, the debriefing program is very controversial. We told each other  
26 horror stories, such as stories of IGIs feeding inmates information in a debrief session, or that  
27 you'd be branded a lying informant if you debriefed. But, before I debriefed, I had never actually  
28 spoken to an inmate who had debriefed.

1           46. Overall, the debriefing process was the most positive experience I've had in prison.  
2 Throughout the process, I was told to only speak about information I knew to be true. At no point  
3 in the process was I to lie or speculate.

4           47. All of the inmates I've met in the SHU unit for debriefers are on the same page: they  
5 are done with the gang lifestyle. There are many reasons for an inmate's decision to drop out:  
6 family, children, religion, fear of being killed by other gang members, or simply outgrowing the  
7 lifestyle. But no matter the reason, everyone just wants to do their own time, and to free himself  
8 from the garbage of gang life.

9           48. In mid-May 2013, I finished my final debriefing interview with the Office of  
10 Correctional Safety (OCS). These men were the definition of professionalism. I told them about  
11 my most shameful and darkest days. Yet over the course of three days of interviewing, they  
12 never blinked an eye, never judged, and never once seemed to be critical. They clearly  
13 understood the hundreds of paths that we gang members have taken that have led to this level of  
14 failure. It was also obvious that they are committed not only to combating gangs, but also helping  
15 men such as myself disassociate from the lifestyle.

16           49. Every day I grow stronger in my decision to leave the Aryan Brotherhood. I have  
17 never been in a better place spiritually or emotionally as a man. Earlier this year, I met with State  
18 Assemblyman Tom Ammiano, to discuss conditions in the Pelican Bay SHU and my decision to  
19 debrief. Attached as Exhibit B is a true and correct copy of the letter I wrote him after we met,  
20 explaining why I decided to disavow myself from the Aryan Brotherhood.

21           50. I am aware that debriefing, and assisting law enforcement generally, poses a threat to  
22 my personal safety by my former brothers in the Aryan Brotherhood. However, it is worth it to  
23 me to live a life free from the gang lifestyle.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed in Crescent City, California, on July 11, 2013.

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